

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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VIACOM INTERNATIONAL, INC., COMEDY
PARTNERS, COUNTY MUSIC
TELEVISION, INC., PARAMOUNT
PICTURES CORPORATION, and BLACK
ENTERTAINMENT TELEVISION, LLC,

Plaintiffs,
vs. No. 07-CV-2203

YOUTUBE, INC., YOUTUBE, LLC,
and GOOGLE, INC.,

Defendants.

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THE FOOTBALL ASSOCIATION PREMIER
LEAGUE LIMITED, BOURNE CO., et al.,
on behalf of themselves and
all others similarly situated,

Plaintiffs,
vs. No. 07-CV-3582

YOUTUBE, INC., YOUTUBE, LLC,
and GOOGLE, INC.,

Defendants.

-----X

HIGHLY CONFIDENTIAL
VIDEOTAPED DEPOSITION OF ZAHAVAH LEVINE
SAN FRANCISCO, CALIFORNIA
THURSDAY, APRIL 2, 2009

BY: KATHERINE E. LAUSTER, CSR 1894, RPR, CRR, CLR

Job No. 16721

1 LEVINE

2 APRIL 2, 2009

3 10:23 A.M.

4
5 HIGHLY CONFIDENTIAL VIDEOTAPED DEPOSITION OF
6 ZAHAVAH LEVINE, at SHEARMAN & STERLING, 525 Market
7 Street, Suite 1500, San Francisco, California, pursuant
8 to notice, before me, KATHERINE E. LAUSTER, CLR, CRR,
9 RPR, CSR License No. 1894.
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1 LEVINE

2 A P P E A R A N C E S :

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4 FOR THE LEAD PLAINTIFFS AND PROSPECTIVE CLASS:

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1 LEVINE

2 A P P E A R A N C E S: (Continued)

3
4 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE and GOOGLE:

5 WILSON, SONSINI, GOODRICH & ROSATI

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24
25 Also Present: Lou Meadows, Videographer

1 LEVINE

2 SAN FRANCISCO, CALIFORNIA

3 THURSDAY, APRIL 2, 2009; 10:23 A.M.

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7 10:23:32 THE VIDEOGRAPHER: On the record.

8 10:23:33 This is today's videotaped deposition of

9 10:23:37 Zahavah Levine, taken on April 2nd, 2009, at

10 10:23:42 Shearman & Sterling, 525 Market Street, 15th floor,

11 10:23:46 in San Francisco, California.

12 10:23:47 In the matter of Viacom International vs.

13 10:23:49 YouTube, Inc., and The Football Association Premier

14 10:23:49 League Limited, et al., vs. YouTube, Inc., et al.,

15 10:23:56 Case Number 07-CV-2103 and 07-CV-3582, in the United

16 10:24:06 States District Court For the Southern District of

17 10:24:06 New York.

18 10:24:09 My name is Lou Meadows, and I represent

19 10:24:12 David-Feldman Worldwide, located at 600 Anton

20 10:24:16 Boulevard, Suite 1100, in Costa Mesa, California.

21 10:24:23 We are now commencing at 10:22 a.m.

22 10:24:23 Will all present please identify

23 10:24:25 themselves and state whom they represent.

24 10:24:28 MR. HART: Bill Hart, Proskauer Rose, for

25 10:24:29 the class plaintiffs.

1 LEVINE

2 10:24:32 MR. COX: Jay Cox, Jenner and Block, for

3 10:24:33 the Viacom Company.

4 10:24:35 MR. KRAMER: Dave Kramer for YouTube and

5 10:24:37 Google. With me is Maura Rees from my firm, and Tim

6 10:24:38 Alger of Google.

7 10:24:41 THE VIDEOGRAPHER: Sir, I can barely hear

8 10:24:44 you. Could you raise your microphone up?

9 10:24:46 MR. KRAMER: Yeah. Hm, that's never

10 10:24:46 happened.

11 10:24:46 Dave Kramer, Wilson Sonsini, for Google

12 10:24:51 and YouTube. With me is Maura Rees from my firm and

13 10:24:56 Tim Alger from Google.

14 10:24:57 THE VIDEOGRAPHER: Okay.

15 10:25:00 THE WITNESS: Zahavah Levine from YouTube.

16 10:25:01 THE VIDEOGRAPHER: If there are no

17 10:25:01 stipulations, the court reporter may now administer

18 10:25:01 the oath.

19 10:25:01 THE REPORTER: Will you raise your right

20 10:25:01 hand, please.

21 10:25:01 Do you solemnly state, under penalty of

22 10:25:01 perjury, the testimony you are about to give will be

23 10:25:01 the truth, the whole truth, and nothing but the

24 10:25:01 truth?

25 10:25:10 THE WITNESS: I do.

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LEVINE

10:25:10

ZAHAVAH LEVINE,

10:25:10

having been sworn as a witness

10:25:10

testified as follows:

10:25:10

10:25:10

EXAMINATION

10:25:10 BY MR. HART:

10:25:12

Q. Good morning, Miss Levine.

10:25:15

A. Morning.

10:25:15

Q. Are you employed?

10:25:16

A. Yes.

10:25:17

Q. By whom?

10:25:18

A. Google.

10:25:19

Q. How long have you been employed by

10:25:21 Google?

10:25:24

A. Since Google acquired YouTube in, I

10:25:28

believe, November 2006.

10:25:30

Q. Okay. What's your current job title?

10:25:33

A. Associate general counsel for YouTube of

10:25:37

Google.

10:25:42

Q. Has your job title changed in any way

10:25:44

since you have been employed by Google?

10:25:48

MR. KRAMER: Objection. Vague.

10:25:53

THE WITNESS: Yes. So I was associate

10:25:57

general counsel.

1 LEVINE

2 10:25:57 BY MR. HART:

3 10:25:58 Q. Uh-huh.

4 10:25:58 A. For Google. Then I was associate general

5 10:26:01 counsel, YouTube, for Google.

6 10:26:05 Q. Uh-huh.

7 10:26:06 A. And I also have the title of chief

8 10:26:08 counsel, YouTube.

9 10:26:10 Q. Okay. And when did you assume the title

10 10:26:13 of chief counsel, YouTube?

11 10:26:15 A. That was -- so I have two titles. One is

12 10:26:19 a YouTube title, and one is a Google title. So the

13 10:26:23 chief counsel, YouTube was immediately prior -- post

14 10:26:26 the acquisition.

15 10:26:27 Q. Got you. Thank you.

16 10:26:34 I'm going to mark and ask the court

17 10:26:36 reporter to mark Exhibit 1, and she'll show that to

18 10:26:39 you as soon as she marks it.

19 10:26:50 (Levine Exhibit Number 1 was marked for

20 10:26:50 identification.)

21 BY MR. HART:

22 10:26:51 Q. And just take a brief minute to page

23 10:26:54 through it, and the question will be, or is: Would

24 10:26:58 you identify this document, Exhibit 1 for us,

25 10:27:01 please?

1 LEVINE

2 10:27:02 A. This is a resume that I prepared after --

3 10:27:08 or immediately, I think, before the acquisition

4 10:27:11 closed, so Google could determine how to place me in

5 10:27:16 its organization.

6 10:27:17 Q. Got you. And does it accurately reflect

7 10:27:19 your employment history prior to the acquisition by

8 10:27:25 Google?

9 10:27:25 MR. KRAMER: Are you just asking her

10 10:27:29 whether each of the jobs that she's had is reflected

11 10:27:32 accurately --

12 10:27:33 MR. HART: Yeah.

13 10:27:34 MR. KRAMER: -- or are you asking if the

14 10:27:35 entire thing is accurate?

15 10:27:37 MR. HART: You know, we'll stick with the

16 10:27:39 prior point of history right now.

17 10:27:41 MR. KRAMER: Yes.

18 10:27:41 BY MR. HART:

19 10:27:41 Q. Is it accurately reflected in this resume,

20 10:27:45 Exhibit 1?

21 10:27:46 A. I don't, upon looking at this now, see any

22 10:27:48 inaccuracies.

23 10:27:49 Q. Okay. Fair enough.

24 10:27:52 It says under the heading "Associate

25 10:27:58 General Counsel RealNetworks, Inc.," on page 1 -- do

1 LEVINE

11:17:17 2 pornography?

11:17:18 3 A. At -- at -- at some point, yes.

11:17:20 4 Q. Okay. And is -- how are those guidelines
11:17:25 5 effectuated or implemented at YouTube, other than
11:17:28 6 having a guideline?

11:17:31 7 MR. KRAMER: So in answering this
11:17:34 8 question, I'd like you to be careful not to reveal
11:17:38 9 privileged communications between yourself, other
11:17:40 10 lawyers, and your client, that is, employers of
11:17:43 11 YouTube.

11:17:44 12 I think he's asking -- not asking for you
11:17:45 13 to do so.

11:17:46 14 MR. HART: No.

11:17:46 15 MR. KRAMER: I think he's asking for the
11:17:47 16 facts about --

11:17:48 17 MR. HART: Uh-huh.

11:17:48 18 MR. KRAMER: -- what goes on at YouTube to
11:17:49 19 implement the -- the pornography policy.

11:17:52 20 MR. HART: Uh-huh.

11:17:54 21 THE WITNESS: So generally speaking, the
11:17:57 22 way that we handle pornography on YouTube is through
11:18:02 23 a -- a system of community flagging.

11:18:05 24 BY MR. HART:

11:18:06 25 Q. Uh-huh. What is that?

LEVINE

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2 11:18:12 A. Users, viewers of YouTube --
3 11:18:16 Q. Uh-huh.
4 11:18:16 A. -- have the ability to flag content when
5 11:18:21 they're watching it, or that they believe is --
6 11:18:25 violates our terms of service.
7 11:18:27 Q. Okay.
8 11:18:27 A. And then that content goes into a re- --
9 11:18:33 gets reviewed --
10 11:18:34 Q. Uh-huh.
11 11:18:35 A. -- by --
12 11:18:39 MR. HART: David's giving me hints.
13 11:18:41 MR. KRAMER: No, you're -- you're saying
14 11:18:41 "okay" and "uh-huh" as she's answering the question,
15 11:18:44 rather than letting her finish the answer.
16 11:18:48 MR. HART: Sorry.
17 11:18:50 MR. KRAMER: I know it's not intentional.
18 11:18:50 I am sure I do stuff like that too, but I'd just
19 11:18:52 like her to be able to finish the answer without
20 11:18:55 being interrupted by an "uh-huh" or an "okay." I
21 11:18:58 know you didn't do it on purpose.
22 11:19:00 BY MR. HART:
23 11:19:01 Q. I'm not saying a thing. Please continue.
24 11:19:04 A. So there are -- there -- a group of
25 11:19:06 employees --

1 LEVINE

2 11:19:07 Q. Uh-huh.

3 11:19:08 A. -- who will review flagged content and do
4 11:19:10 their best to make a determination as to whether it,
5 11:19:13 in fact, violates the terms of service policy at
6 11:19:19 issue, in this example, whether it's pornography.

7 11:19:25 Q. Okay. Have you completed your answer?

8 11:19:27 A. Yes.

9 11:19:27 Q. Thank you.

10 11:19:34 When you say content is "flagged," is it
11 11:19:37 flagged by the user? And in doing so, does the flag
12 11:19:43 send some message of some sort to somebody
13 11:19:50 internally, YouTube, to review the flagged content?

14 11:19:59 MR. KRAMER: The question is vague as to
15 11:20:00 "user."

16 11:20:01 THE WITNESS: Yeah, there is -- there's
17 11:20:03 many parts -- there's many parts of that.

18 BY MR. HART:

19 11:20:06 Q. Uh-huh.

20 11:20:07 A. So why don't you ask each part separately?

21 11:20:09 Q. Okay. I -- my question is actually
22 11:20:10 simpler than it sounded. So let me just rephrase
23 11:20:13 it, which is: Can you just explain very briefly how
24 11:20:16 the flagging system operates functionally?

25 11:20:19 A. Yes.

1 LEVINE

11:20:20 2 MR. KRAMER: Calls for -- doesn't call for
11:20:22 3 speculation.

11:20:22 4 THE WITNESS: Well --

11:20:22 5 MR. KRAMER: Go ahead.

11:20:22 6 THE WITNESS: -- at a -- at a general
11:20:24 7 level, I mean, I'm not an engineer. I'm not
11:20:25 8 qualified --

11:20:25 9 BY MR. HART:

11:20:26 10 Q. No, no, no.

11:20:28 11 A. General level, a -- somebody viewing --
11:20:30 12 anybody that's viewing content --

11:20:32 13 Q. Uh-huh.

11:20:32 14 A. -- has the ability to check a box that
11:20:35 15 says -- indicates they believe it's a violation of
11:20:39 16 YouTube's terms of service.

11:20:42 17 And such checking -- generally speaking,
11:20:49 18 there's -- it gets a little complicated, but,
11:20:52 19 generally speaking, might result in the review of
11:20:55 20 that content by an employee of YouTube.

11:20:59 21 Q. Okay. That -- that was really the point
11:21:01 22 of my question. You mean by a viewer checking
11:21:05 23 something or flagging something, does it, in some
11:21:09 24 way, send a signal to someone at YouTube to take a
11:21:14 25 look at the particular video that has been so

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1 LEVINE

11:23:19 2 speculation.

11:23:20 3 THE WITNESS: I believe in the early days

11:23:21 4 it -- it may have.

11:23:23 5 BY MR. HART:

11:23:23 6 Q. Do you -- do you know when that changed?

11:23:30 7 MR. KRAMER: Calls for speculation and

11:23:32 8 lacks foundation.

11:23:42 9 THE WITNESS: I'm not exactly sure.

11:23:44 10 BY MR. HART:

11:23:48 11 Q. Can you approximate in relation to the

11:23:51 12 Google acquisition?

11:23:54 13 MR. KRAMER: Same objections. Calls for

11:23:55 14 speculation, lacks foundation.

11:24:02 15 THE WITNESS: No.

11:24:03 16 BY MR. HART:

11:24:05 17 Q. Okay. How does YouTube implement its

11:24:10 18 content policy against violent videos?

11:24:17 19 A. It's the same way that I already

11:24:20 20 described.

11:24:21 21 Q. Community flagging?

11:24:22 22 A. Yes.

11:24:23 23 Q. Okay. Was there, at any time, any person

11:24:28 24 or persons functioning at YouTube who were

11:24:31 25 proactively looking on YouTube for violent videos

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1 LEVINE

2 13:23:58 (Levine Exhibit Number 4 was marked for
3 13:23:58 identification.)

4 13:23:59 BY MR. HART:

5 13:24:38 Q. I guess, to save time, to the extent that
6 13:24:42 you can --

7 13:24:42 A. Okay.

8 13:24:43 Q. -- the two threshold questions are whether
9 13:24:45 you can identify what we've just marked as Exhibit
10 13:24:48 4, and whether you were involved in any way in its
11 13:24:52 negotiation.

12 13:24:53 MR. KRAMER: Take those one at a time.

13 13:25:03 THE WITNESS: Yes, this appears to be a
14 13:25:05 content license with Wind-Up Records.

15 13:25:08 BY MR. HART:

16 13:25:09 Q. And were you involved in negotiating any
17 13:25:11 sort of content license with Wind-Up Records for
18 13:25:15 YouTube?

19 13:25:15 A. I don't think I was the primary negotiator
20 13:25:16 on this deal, but I may have been consulted a couple
21 13:25:20 of times.

22 13:25:21 Q. You were aware that a deal --

23 13:25:22 A. I am aware that we had --

24 13:25:22 Q. -- had to be struck --

25 13:25:22 A. Yeah. Yes, I was aware that a deal had

1 LEVINE

2 16:00:37 don't know how they were able to discern.

3 16:00:40 Q. Uh-huh. And do you have any knowledge

4 16:00:50 about what search terms were used, or -- yeah, what

5 16:00:58 search terms were used?

6 16:01:00 A. Specifically?

7 16:01:02 Q. Or generally, how did -- how did -- you

8 16:01:04 said they searched metadata. I guess my question

9 16:01:10 is: Do you know how they knew what to search?

10 16:01:15 MR. KRAMER: Objection. Assumes facts,

11 16:01:17 calls for speculation.

12 16:01:19 And again, he's not asking -- he's not

13 16:01:24 asking you to reveal the substance of

14 16:01:26 attorney-client communications. So you -- to the

15 16:01:31 extent he is, I instruct you not to answer the

16 16:01:34 question.

17 16:01:34 BY MR. HART:

18 16:01:35 Q. I'm not --

19 16:01:36 A. Yeah. I don't know specifically any

20 16:01:41 particular searches.

21 16:01:43 Q. Uh-huh.

22 16:01:43 A. I can speculate as to what I think they

23 16:01:46 probably or might have done.

24 16:01:47 Q. And what's that?

25 16:01:48 A. Perhaps they would have put in "American

1 LEVINE

2 16:01:51 Idol," for example, if they were scanning for
3 16:01:57 American Idol.

4 16:01:58 Q. And why do you speculate that they might
5 16:02:01 have done that?

6 16:02:11 A. Because if somebody did upload an
7 16:02:13 unauthorized copy of American Idol and wanted other
8 16:02:17 people to view it, they might use that -- those
9 16:02:23 words in the metadata so other -- so it would come
10 16:02:26 up among other results in the search results.

11 16:02:30 Q. Right. But why would someone at YouTube
12 16:02:36 decide to search for American Idol, as opposed to
13 16:02:40 all of the other possible searches that they could
14 16:02:44 do?

15 16:02:45 A. I think I --

16 16:02:46 MR. KRAMER: Hang on. Calls for
17 16:02:47 speculation. Incomplete hypothetical. The question
18 16:02:57 is vague.

19 16:02:57 BY MR. HART:

20 16:03:00 Q. But other than that, Miss Levine?

21 16:03:04 A. Well, for -- so with respect to American
22 16:03:12 Idol --

23 16:03:13 Q. Uh-huh.

24 16:03:13 A. -- American Idol -- American Idol, I -- I
25 16:03:23 recall was a company --

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LEVINE

16:15:57 THE WITNESS: I -- I don't recall any
16:15:58 conversations --

BY MR. HART:

16:15:59 Q. Okay.

16:15:59 A. -- about it.

16:16:00 Q. Now, did there come a point at YouTube
16:16:02 when there was a decision made to stop any sort of
16:16:05 proactive scanning of content for potential
16:16:10 copyright infringement?

16:16:28 MR. KRAMER: I'll object to the form of
16:16:29 the question.

16:16:30 You can answer.

16:16:35 THE WITNESS: I -- I don't recall a
16:16:37 specific time where a decision was made --

16:16:40 BY MR. HART:

16:16:40 Q. Uh-huh.

16:16:40 A. -- not to do that.

16:16:42 Q. Uh-huh. Did there come a point in time
16:16:45 when YouTube, in fact, stopped proactively scanning
16:16:49 for potentially copyright infringing content on the
16:16:54 YouTube site?

16:17:07 A. There's a sort of an assumption in your
16:17:09 question that there was an ongoing policy to do
16:17:13 that, which I don't necessarily think was the

1 LEVINE

2 16:17:16 ongoing policy. I think that in the early days
3 16:17:19 there were some efforts made to do that on behalf
4 16:17:25 of -- at certain times, you know, and at some point
5 16:17:31 we stopped making those efforts.

6 16:17:34 Q. Uh-huh. Do you know why, when you say
7 16:17:38 "we," YouTube stopped making those efforts?

8 16:17:41 MR. KRAMER: Let me object to that
9 16:17:42 question to the extent it calls for the disclosure
10 16:17:45 of confidential legal communications between
11 16:17:48 counsel, and between you and your client. To the
12 16:17:50 extent there is a non-legal reason, you can answer
13 16:17:53 the question.

14 16:17:57 MR. HART: Right now I just asked her if
15 16:17:59 she knows why. I didn't ask her to tell me what the
16 16:18:02 why was.

17 16:18:03 MR. KRAMER: Okay.

18 16:18:05 THE WITNESS: More or less.

19 16:18:06 BY MR. HART:

20 16:18:07 Q. Okay. Can you tell me why?

21 16:18:13 MR. KRAMER: Same instruction.

22 16:18:17 THE WITNESS: We found that we were
23 16:18:19 not very good at determining when content on the
24 16:18:24 site was or was not authorized by the copyright
25 16:18:31 owner.

1 LEVINE

2 17:30:40 BY MR. HART:

3 17:30:41 Q. Okay. Let me show you what we've marked
4 17:30:43 as Exhibit 24, and ask you if you have ever seen
5 17:30:50 that document before.

6 17:31:56 Have you had a chance to read that e-mail
7 17:31:58 yet?

8 17:31:58 A. Yes, I have.

9 17:31:59 Q. Okay. See where it says:

10 17:32:01 Even if a video of a certain program is
11 17:32:03 deleted, the same content is uploaded
12 17:32:06 again, over and over?

13 17:32:07 A. Yes.

14 17:32:09 Q. Is that a problem at YouTube?

15 17:32:11 MR. KRAMER: Wait. The question is vague.
16 17:32:14 It's vague -- the question is vague. I'll object to
17 17:32:17 the form of the question.

18 17:32:33 THE WITNESS: I don't know what this
19 17:32:35 gentleman is talking about, because I can't read his
20 17:32:38 mind -- or her. I don't know if it's a man or a
21 17:32:41 woman.

22 23:59:57 BY MR. HART:

23 17:32:43 Q. Uh-huh.

24 17:32:45 A. But I don't -- my guess is that they're
25 17:32:48 not talking about identical content being uploaded

1 LEVINE

2 17:32:51 again and again.

3 17:32:52 Q. Uh-huh. Because otherwise an MD5 hash

4 17:32:58 would catch it?

5 17:33:00 A. Correct.

6 17:33:00 Q. And what if the first video is three

7 17:33:05 minutes of a program, and the next upload of

8 17:33:13 essentially the same content is edited to be two

9 17:33:16 minutes and 59 seconds? I think you told us earlier

10 17:33:21 the MD5 hash won't catch that, will it?

11 17:33:25 A. Probably not.

12 17:33:27 Q. Does YouTube fingerprint content that has

13 17:33:34 been identified pursuant to DMCA take-downs --

14 17:33:39 notices?

15 17:33:40 MR. KRAMER: Objection to the term

16 17:33:42 "fingerprinting" as vague.

17 17:33:44 MR. HART: Uh-huh.

18 17:34:01 THE WITNESS: Not as a general matter, no.

19 17:34:03 BY MR. HART:

20 17:34:05 Q. Does it do that for premium content

21 17:34:08 partners?

22 17:34:10 A. No, no, not as a general matter, no.

23 17:34:13 Q. Okay. Does the three strike rule apply to

24 17:34:22 your premium content partners?

25 17:34:28 MR. KRAMER: Objection. Today?

1 LEVINE

2 18:11:27 MR. KRAMER: She can answer.

3 18:11:27 BY MR. HART:

4 18:11:28 Q. Uh-huh.

5 18:11:30 A. I'm aware of the decision being discussed

6 18:11:33 in this e-mail.

7 18:11:34 Q. Okay. Did you take part in that decision?

8 18:11:43 MR. KRAMER: Objection. Question is

9 18:11:44 vague.

10 18:11:45 You can answer.

11 18:11:48 THE WITNESS: So I think it was the

12 18:11:50 process of that decision, the attorney-client

13 18:11:53 privilege.

14 18:11:54 MR. KRAMER: To the extent -- okay. Let

15 18:11:56 me --

16 18:11:58 THE WITNESS: And that how the decision

17 18:11:58 was made, I think was attorney-client privilege.

18 18:12:00 BY MR. HART:

19 18:12:01 Q. I simply asked whether you took part in

20 18:12:03 the decision so far.

21 18:12:05 MR. KRAMER: Right. I think the question

22 18:12:07 simply is whether or not you participated in the

23 18:12:09 decision over whether to continue to show ads on all

24 18:12:15 watch pages for user-generated content.

25 18:12:18 I would instruct you not, in the course --

1 LEVINE

2 18:12:22 in the course of answering this or future questions,
3 18:12:24 reveal attorney-client privileged communications,
4 18:12:28 that is, communications of a legal nature, but if
5 18:12:32 there are other communications or discussions in
6 18:12:34 which you participated that do not reflect
7 18:12:37 confidential attorney-client communications, those
8 18:12:40 you can reveal. I don't think this question calls
9 18:12:43 for it, but I --

10 18:12:46 MR. HART: I don't think so either.

11 18:12:48 THE WITNESS: You don't think the question
12 18:12:50 calls for what? Attorney --

13 18:12:54 MR. KRAMER: I don't the question here is
14 18:12:56 calling -- sorry.

15 18:12:56 THE WITNESS: Sorry.

16 18:12:56 MR. HART: Go ahead.

17 18:12:57 MR. KRAMER: I don't the question here is
18 18:12:57 calling for you to disclose attorney-client
19 18:12:58 communications at all. I think he's simply asking
20 18:13:01 whether you were involved in the process by which
21 18:13:03 the decision discussed in this exhibit were --
22 18:13:07 was --

23 18:13:07 THE WITNESS: Uh-huh.

24 18:13:07 MR. KRAMER: -- was reached.

25 18:13:08 THE WITNESS: I -- I may have been

1 LEVINE

2 18:13:09 involved in it.

3 18:13:10 BY MR. HART:

4 18:13:12 Q. Do you know the reason why that decision

5 18:13:14 was made?

6 18:13:15 MR. KRAMER: Okay. So same instruction.

7 18:13:17 MR. HART: All right.

8 18:13:18 MR. KRAMER: To the extent that there are

9 18:13:19 legal -- to the extent that there are privileged

10 18:13:21 communications to which you were a party, you're not

11 18:13:24 to reveal those, but to the extent there were

12 18:13:27 communications of a nonlegal nature, you can -- you

13 18:13:30 can disclose -- discuss those.

14 18:13:32 THE WITNESS: Okay. That's sort of hard

15 18:13:33 in my head, so I need to think about this for a

16 18:13:36 second.

17 18:13:37 BY MR. HART:

18 18:13:39 Q. Keep in mind, all I asked right now is:

19 18:13:41 Do you know the reason why the decision was made?

20 18:13:44 A. Well --

21 18:13:45 Q. Not --

22 18:13:45 A. Okay.

23 18:13:46 MR. KRAMER: Not what the decisions were?

24 18:13:48 MR. HART: Didn't ask that yet.

25 18:13:49 MR. KRAMER: Okay. You're right.

1 LEVINE

2 18:14:48 business.

3 18:14:49 Q. Uh-huh. Okay. Does YouTube currently
4 18:14:51 feature advertising on the search results pages of
5 18:14:55 the YouTube site?

6 18:14:57 MR. KRAMER: Objection. The question is
7 18:14:58 vague as to "feature."

8 18:14:59 BY MR. HART:

9 18:15:02 Q. All right. Fair enough. Let me rephrase
10 18:15:04 that question. David's been such a nice guy today.
11 18:15:08 Does YouTube currently have advertising on
12 18:15:11 the search results pages of the YouTube website?

13 18:15:16 MR. KRAMER: Calls for speculation.

14 18:15:18 MR. HART: That's where I draw the line,
15 18:15:20 David.

16 18:15:20 BY MR. HART:

17 18:15:21 Q. Go ahead.

18 18:15:22 A. Oftentimes it does.

19 18:15:23 Q. Uh-huh. And I show you what had been
20 18:15:25 previously marked as Exhibit 15 (sic) at the Reider
21 18:15:31 or Reider -- Reider deposition?

22 18:15:40 (Hands document.) One for you, two for
23 18:15:43 you.

24 18:15:51 And ask you if this Reider Exhibit 13 is a
25 18:15:58 fair representation of an ad appearing on a search

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LEVINE

18:17:09 answer, but a nontechnical one would be better --

18:17:12 why the advertising that's shown on Reider Exhibit

18:17:16 13 is sports-related, and the content that the

18:17:19 advertising is being shown with on the search

18:17:24 results page is English Premier League content,

18:17:29 which is also generally sports-related?

18:17:34 MR. KRAMER: Calls for speculation, lacks

18:17:36 foundation, assumes facts.

18:17:43 THE WITNESS: Can you ask a shorter

18:17:44 question or --

BY MR. HART:

18:17:45 Q. Uh-huh.

18:17:46 A. -- be more specific?

18:17:47 Q. Is it just a coincidence that the

18:17:49 advertising is Puma or for Puma, which is a

18:17:53 sports -- sportswear company, and it appears in

18:18:01 conjunction with search results that are for the

18:18:03 English Premier League, which is a British football,

18:18:08 sports-oriented subject?

18:18:10 MR. KRAMER: Same objections. That is,

18:18:12 assumes facts, calls for speculation, lacks

18:18:15 foundation.

18:18:19 THE WITNESS: So the advertising that we

18:18:21 run in search results --

1 LEVINE

2 18:18:22 BY MR. HART:

3 18:18:22 Q. Uh-huh.

4 18:18:23 A. -- to my knowledge, does not have anything

5 18:18:25 to do with the search results.

6 18:18:27 Q. So your testimony is that, to your

7 18:18:28 knowledge, this is just a coincidence?

8 18:18:31 MR. KRAMER: Same objections.

9 18:18:32 THE WITNESS: No, I'm going to repeat what

10 18:18:34 I said. It has nothing to do with the search

11 18:18:36 results.

12 18:18:36 MR. KRAMER: I -- I -- go ahead.

13 18:18:40 THE WITNESS: It's not tied to the search

14 18:18:42 results.

15 01:59:57 BY MR. HART:

16 18:18:43 Q. Okay. What is it tied to?

17 18:18:45 MR. KRAMER: Objection. Calls for

18 18:18:46 speculation, assumes facts, lacks foundation to the

19 18:18:50 extent you're referring to this document. I just --

20 18:18:52 I don't know what this document is.

21 18:18:54 BY MR. HART:

22 18:18:55 Q. Uh-huh. Do you know what it is tied to?

23 18:19:04 A. I believe that it is tied in some way, I

24 18:19:07 don't know exactly how, to the search term that the

25 18:19:10 user enters.